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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: 

DEPUTY

1 Chad McKinney
2 Pro Se
3 6266 Madeline St Apt #61
4 San Diego, CA 92115
5 619-634-3566

THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

6 CHAD MCKINNEY, an individual,

10 Plaintiff,

14 v.

15 APOLLO GROUP INC., UNIVERSITY OF
16 PHOENIX , a Corporation, MECHELLE
17 FLYNN, Director of Enrollment at
18 UNIVERSITY OF PHOENIX, APRIL
19 ALCORN, an Employee Relations
20 Consultant at UNIVERSITY OF PHOENIX
21 CARLYN LINDSTEN, Associate Director of
22 Enrollment at UNIVERSITY OF PHOENIX
23
24

Defendants

) CIV. Case No.07-cv-2373
)
) FOR VIOLATION OF FEDERAL
) FALSE CLAIMS ACT AND FOR
) VIOLATION OF THE
) THE CIVIL RIGHTS ACT 1964 AND
) THE AMENDMENTS TO TITLE
) VII OF THE CIVIL RIGHTS ACT OF
) 1991

) RETALIATION- WRONGFUL
) TERMINATION &
) EMPLOYMENT DISCRIMINATION
) CIVIL ACTION

) Memorandum of Points and
) Authorities in Support of Plaintiff's
) Notice to the Court

) Demand for Trial By Jury Pursuant
) to U.S. Constitution, 7th Amendment

) March 3, 2008

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S
NOTICE TO THE COURT**

Dear honorable Judge Hayes,

The Plaintiff, Chad McKinney, would like to respectfully inform the court that the Defendant's attorney, Nathan Hicks, an associate of Snell and Wilmer L.L.P. contacted the Plaintiff on Friday, February 29th, 2008 at 5:12 P.M. Pacific Standard time to request the Plaintiff's acquiescence on an extension of time to respond to the Plaintiff's complaint. The Plaintiff rejected the Defendant's request for an extension of time to reply to the original complaint based upon Mr. Hicks' inability to provide the Plaintiff with a justifiable reason for the Defendant's failure to plead or otherwise defend themselves against the plaintiff's original complaint within the timeframe required by Rule 55(a) of the Federal Rules of Civil Procedure, and any other relevant Federal Rule of Civil Procedure pertaining to this case. The Plaintiff believes that the Defendant was allowed ample time to respond to the Plaintiff's complaint for the following reasons:

1. This complaint was filed on December 19, 2007
2. This complaint was served on January 31, 2008
3. As of the 28th of February 2008, the Defendant was late 8 days.
4. Snell and Wilmer L.L.P. is a professional law firm and is not an infant or incompetent, but a large corporation who was given ample time to respond within the timeframe required by the Federal Rules of Civil Procedure.
5. In addition to the Apollo Group, Inc., four individuals, whom work for the company, were also properly served by a professional agency.

1 6. No extra time was requested by the defendant nor granted by the Court prior to the
2 Plaintiff filing a motion for the Clerk's entry of default.
3

4 WHEREFORE, the Plaintiff respectfully realizes that the final decision to grant an extension
5 of time lies with the court, however the Plaintiff would like to state for the record that he did
6 not grant his permission or agreement for an extension of time and finds it improbable and
7 highly unlikely that the Defendant was unable to plead or otherwise defend themselves against
8 the plaintiff's original complaint within the timeframe required by the Federal Rules of Civil
9 procedure.
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11 Respectfully submitted,

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